

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARLOS PEREZ,

Plaintiff,

-against-

9:10-CV-0518 (LEK/DRH)

BRIAN FISCHER, Commissioner;
LUCIEN J. LeCLAIRE, JR., Deputy
Commissioner; JOHN DOE, Inspector
General of NYS DOCS; DALE ARTUS,
Superintendent, Clinton Correctional
Facility; S. RACETTE, Deputy
Superintendent, Clinton Correctional
Facility; D. KEYSOR, Deputy
Superintendent of Administration, Clinton
Correctional Facility; D. HOLDRIDGE,
Captain, Clinton Correctional Facility;
MILLER, Lieutenant, Clinton
Correctional Facility; R. FURNIA,
Sergeant, Clinton Correctional Facility;
K. RABIDEAU, Clinton Correctional
Facility; D. DUQUETTE, Clinton
Correctional Facility; S. TOUSIGNANT,
Clinton Correctional Facility; ST. LOUIS,
Clinton Correctional Facility; MUSSEN,
Clinton Correctional Facility; and
JOHN/JANE DOES ##1-5, Clinton
Correctional Facility,

Defendants.

DECISION and ORDER

This matter comes before the Court following a Report-Recommendation filed on March 1, 2012, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Dkt. No. 48 (“Report-Rec.”).

After fourteen days from the service thereof, the Clerk has sent the entire file to the undersigned, including the Objections by Plaintiff Carlos Perez (“Plaintiff”), which were filed on March 15,

2012. Dkt. No. 49 (“Objections”).

The Court is to “make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). Where, however, an objecting “party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” Farid v. Bouey, 554 F. Supp. 2d 301, 307 (N.D.N.Y. 2008) (quoting McAllan v. Von Essen, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007)) (citations and quotations omitted); see also Brown v. Peters, No. 95-CV-1641, 1997 WL 599355, at *2-3 (N.D.N.Y. Sept. 22, 1997). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff raises objections to the portions of the Report-Recommendation pertaining to: (1) Plaintiff’s failure to exhaust his administrative remedies; (2) the personal involvement of Defendant Racette; (3) Plaintiff’s claim for denial of access to the courts; (4) Plaintiff’s conspiracy claim; (5) Plaintiff’s due process claim; and (6) dismissal of “John/Jane Doe” defendants. Obj. at 3-10. Accordingly, the Court has reviewed these portions of the Report-Recommendation *de novo*, and the remainder of the Report-Recommendation for clear error. After a careful review of the record – and taking all of Plaintiff’s Objections into consideration – the Court concludes that the the Report-Recommendation should be approved and adopted in its entirety for the reasons stated therein.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 48) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendants’ Motion for summary judgment (Dkt. No. 40) is **GRANTED**

as to: (1) Defendants Fischer, Artus, LeClaire, and Racette; (2) Plaintiff's claims of conspiracy against Defendants Keysor and Miller; and (3) Plaintiff's First Amendment access to courts and Sixth Amendment claims; and **DENIED** as to all other Defendants and claims; and it is further

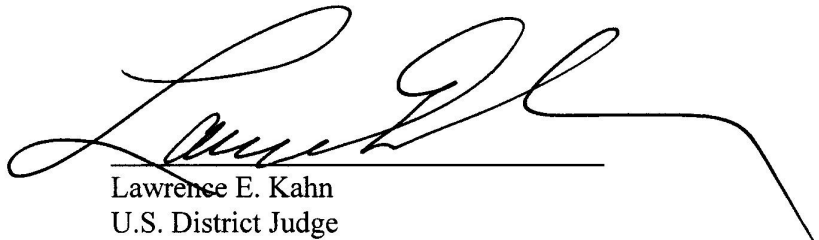
ORDERED, that Defendants Fischer, Artus, LeClaire, and Racette are terminated from this action; and it is further

ORDERED, that all "John/Jane Doe" Defendants are **DISMISSED without prejudice** pursuant to Rule 4(m) of the Federal Rules of Civil Procedure; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 30, 2012
Albany, New York



Lawrence E. Kahn
U.S. District Judge